

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE SAN FRANCISCO PARKS ALLIANCE
AND
THE SAN FRANCISCO RECREATION & PARK DEPARTMENT**

This Memorandum of Understanding (“MOU”) is made and entered into as of May 24, 2021 (the “Effective Date”), by and between the City and County of San Francisco (the “City”), acting by and through the Recreation and Park Department (“RPD”), and the San Francisco Parks Alliance, a California non-profit benefit corporation (“SFPA”). For purposes of this MOU, “Party” means RPD or SFPA, as a party to this MOU; and “Parties” means both RPD and SFPA, as parties to this MOU.

RECITALS

- A.** WHEREAS, RPD is a department of the City and County of San Francisco that oversees more than 220 parks, playgrounds, and open spaces. As of the date of this MOU, the park system includes 25 recreation centers, nine swimming pools, five golf courses and numerous tennis courts, ball diamonds, soccer fields and other sports venues. Also included in RPD’s responsibilities are the Marina Yacht Harbor, the San Francisco Zoo, Camp Mather, and Lake Merced. RPD’s mission is to provide enriching recreational activities, maintain beautiful parks and facilities, and preserve the environment for the well-being of everyone in our diverse community. RPD is managed by a General Manager and governed by the San Francisco Recreation and Park Commission (“Commission”); and
- B.** WHEREAS, SFPA is a non-profit 501(c)(3) corporation and is a legally distinct entity from RPD. RPD does not generally have oversight over SFPA. SFPA’s mission is to champion, transform and activate parks and public spaces throughout the city. SFPA partners with RPD on numerous projects, including events, capital projects and RPD programs, in order to support RPD’s mission. SFPA raises funds for these projects in order to supplement City funding for RPD; and
- C.** WHEREAS, the parties share the common objectives of providing the highest quality parks and open spaces and ensuring access to free and low-cost events and public programs in San Francisco; and
- D.** WHEREAS, on May 20, 2021, the Commission approved this MOU with the adoption of Resolution No. 2105-007;

NOW, THEREFORE, subject to and effective upon the execution of this MOU by both Parties (the “Effective Date”), the Parties agree as follows:

- 1. Term of MOU.** This MOU shall commence on the Effective Date and shall be effective for an initial term of one year, unless the Parties extend the term. Any such extension shall require the mutual written agreement of the Parties. This MOU may be extended only one year at a time, and only up to two times, for a total possible term of three years. Any such extensions shall be on the same terms and conditions as this MOU, and all references to the Term of the MOU shall thereafter include the term of the extension.
- 2. SFPA’s Fiscal Support of RPD.**
 - 2.1 Annual Support.** SFPA may, individually or jointly with RPD, raise and expend private funds to provide general support for operating and maintenance costs of facilities, parks and other RPD-managed spaces, as well as recreational programs and other RPD operations, in each

case, as set forth on Exhibit D to this MOU, as the same may be updated by written agreement of SFPA and RPD from time to time. These monies shall be known as the “Annual Support” funds and shall be held by SFPA in separate accounts collectively known as the “Annual Support” accounts. Annual Support funds may be raised through the joint commemorative bench program (Recreation and Park Commission Resolution No. 1904-004) and other fundraising efforts. The budgeting, acceptance, and expenditure of the Annual Support funds shall be governed by Section 3 of this MOU.

2.2 Special Project Support. Separate from providing Annual Support as described in Section 2.1, SFPA has from time to time supported specific capital projects, fundraising projects, programs, and events (“Special Project Support”). Exhibit A to this MOU shall apply to all the Special Project Support listed in Exhibit E. In addition, A list of existing Special Project Support as of the date of this MOU is attached as Exhibit E. SFPA shall hold all Special Project Support in separate designated accounts; provided that if any Special Project Support is not utilized for the specific capital project for which it was raised, then upon completion of the applicable capital project any unexpended Special Project Support may, upon the mutual agreement of SFPA and RPD, be reallocated to a joint fund to be established by SFPA and RPD and used to support projects in equity zones in the City but only to the extent such reallocation is not prohibited by the terms of the specific donation or by law. Otherwise, this MOU does not address any future Special Project Support. The terms applicable to any future Special Project Support will be detailed in separate permits and/or grants agreements, as applicable, that shall define the proposed expenditures, assign specific roles and responsibilities, and ensure compliance with all applicable City requirements on matters such as the disclosure and recordkeeping requirements in Exhibit A, project delivery, park access, donor recognition, contracting, acceptance of work and conditions thereof, approvals, insurance, and indemnity. Approval of this MOU does not constitute approval of any future Special Project agreement.

3. Roles & Responsibilities.

3.1 Proposed Budget. By January 31 of each year, RPD will submit a written summary to SFPA of the proposed uses of the Annual Support funds along with a description of how these funding requests comply with RPD’s strategic plan. The parties will jointly approve a proposed budget for the expenditure of these funds, and may by mutual agreement update the budget from time to time in writing.

3.2 Acceptance of Funds. RPD will obtain City authorization to accept and expend cash and in-kind grants from SFPA to the extent required by the San Francisco Administrative Code or other applicable law. Upon the reasonable request of RPD, SFPA will attend any meetings regarding the City acceptance of these funds as needed to provide support for the joint projects that will be funded with Annual Support funds.

3.4 Requests for Disbursement from Annual Support Fund. RPD will submit written check requests, duly executed by an Authorized Representative (as defined below) of RPD, to SFPA requesting the release of Annual Support funds together with supporting documentation evidencing the use of such funds as SFPA may reasonably require, such as invoices and/or budgets. Prior to delivering any written check request under this MOU, RPD will deliver to SFPA an incumbency certificate setting out the names, titles and specimen signatures of each RPD officer or employee entitled to submit check requests under this MOU. RPD shall update such incumbency certificate to reflect the addition or removal of any such individuals

from time to time, and, in any event, at least quarterly. SFPA shall be entitled to conclusively rely on the latest such incumbency certificate. A request for the release of Annual Support funds may be for advances or reimbursements to the City, or for direct payment by SFPA to RPD vendors. These funds will be used to support RPD programs and operations including community events, youth development and recreational programs and RPD projects consistent with its strategic plan including but not limited to the following: volunteer programs, park bench maintenance, park partnerships, staff development programs and activities including training, partnership development and planning, professional development, strategic planning, and employee recognition and appreciation. RPD requests will adhere to SFPA fiscal year deadlines and other requirements as mutually agreed in writing. SFPA will pay all requests for advances or reimbursements to the City within 30 calendar days after receipt from RPD of a request that complies with the terms of this MOU, and will use commercially reasonable efforts to make payments to vendors in accordance with any such vendors' terms that have been provided in writing to SFPA. SFPA will maintain documentation regarding requests and corresponding payment in an orderly manner as set forth in Exhibit A.

3.5 Quarterly Reports and Reconciliations. SFPA will provide quarterly reports to RPD, and shall use commercially reasonable efforts to deliver such reports (i) with respect to the first three fiscal quarters of any year, within [45] days after the end of such fiscal quarter and (ii) with respect to the fourth fiscal quarter of any year, within [90] days after the end of such fiscal quarter, regarding the balance and use of funds within the Annual Support fund (i.e., beginning period balance, revenues, expenses, ending period balance), including donation and expenditure reports. RPD's Finance Division and SFPA will each use commercially reasonable efforts to reconcile expenditure reports and separate account balances. RPD will post a reconciled annual expenditures report on its website by September 30 of each year. To create additional transparency around the use of Annual Support funds, RPD will submit the reconciled quarterly report of all expenditures to the Recreation and Park Commission for review within 30 days after receipt of the reports.

3.6 Reports. Each Party will each provide reasonable assistance to the other Party in connection with any output reporting requirements of programs covered by this MOU, including reports on how SFPA's activities under this MOU support RPD's Strategic Plan initiatives. In addition, each Party will provide all information reasonably requested by the other Party in connection with any reporting obligations either Party may have under this MOU or as required by law (including with respect to behested payments). Within 30 days after the date of this MOU, the parties shall develop such additional documentation, processes and procedures as may be necessary or appropriate (and which may be updated from time to time) to facilitate the parties' performance of their respective obligations under this MOU, including reporting obligations with respect to behested payments.

3.7 Financial Reporting and Audit Provisions. The parties shall also comply with the additional provisions regarding disclosures, recordkeeping, and auditing attached hereto as Exhibit A which are fully incorporated herein. For the avoidance of doubt, Exhibit A shall apply to all Annual Support, as well as to all Special Project Support listed in Exhibit E.

3.8 Good Standing. Each Party shall endeavor to provide the other party with written notice promptly following any and all changes in circumstances that could reasonably be expected to cause the noticing party to become unable to comply with its material obligations under

this MOU.

4. **Grant Applications.** Consistent with Administrative Code Section 10.170 et seq., RPD may deliver written notice to SFPA requesting that SFPA apply for grants from third-parties that advance the mission of RPD, where RPD itself is not eligible to submit an application due to the terms of the grant ("Requested Grants"). If SFPA agrees (in its sole discretion) to submit the Requested Grant, RPD will provide SFPA all necessary information reasonably required by SFPA to apply for, secure and comply with the terms of the Requested Grant all applicable City approvals and requirements and any further requirements of the grantor. If SFPA is successful in obtaining any Requested Grant, the acceptance and administration of any funds obtained through such Requested Grant shall be memorialized in a grant agreement that complies with all applicable City approvals and requirements and any further requirements of the grantor.
5. **Other Fundraising Efforts and Activities.** The Parties shall meet as needed but at least annually in March to discuss and define fundraising efforts, activities, and goals. RPD acknowledges that SFPA, like all non-profits, must use a portion of the funds it raises to fund its own administrative expenses. The parties agree that SFPA may retain up to ten percent (10%) of any cash contributions it raises for Annual Support to reimburse itself for its administrative expenses. SFPA must disclose the administrative fee to all potential donors. SFPA acknowledges that it must obtain a permit for all fundraising events and activities to be hosted at RPD parks or facilities, subject to RPD's standard permitting policies, and that such permits may impose additional requirements on SFPA with respect to such events and activities.
6. **Insurance.** Without in any way limiting SFPA's liability pursuant to the "Indemnification" section of this MOU, SFPA must maintain in force, during the full term of this MOU, insurance in the amounts and coverages specified in Exhibit B, and shall name as an additional insured the City and County of San Francisco, its Officers, Agents, and Employees.
7. **Indemnification.** Subject to any provision in this MOU or in any subsequent agreement entered into hereunder to the contrary, each Party agrees to waive claims against and indemnify the other Party as follows:

To the extent allowable by law, SFPA agrees to defend, indemnify and hold harmless the City, its officers, employees and agents ("City Indemnitees") from any and all acts, claims, omissions, liabilities and losses asserted by any third party arising out of acts or omissions of SFPA and/or their officers, employees and agents (including any contractors hired by SFPA) in connection with this MOU, except those arising by reason of the sole negligence or willful misconduct of the City Indemnitees.

To the extent allowable by law, City agrees to defend, indemnify and hold harmless SFPA, its officers, directors, employees and agents ("SFPA Indemnitees"), from any and all acts, claims, omissions, liabilities and losses asserted by any third party arising out of acts or omissions of City, its officers, employees and agents (including any contractors hired by the City) in connection with this MOU, except those arising by reason of the sole negligence or willful misconduct of the SFPA Indemnitees.

In the event of concurrent negligence of the City Indemnitees and the SFPA Indemnitees, the

liability for any and all claims for injuries or damages to persons and/or property shall be apportioned under the California theory of comparative negligence as presently established or as may hereafter be modified.

The indemnity obligations described in this Section shall survive expiration of this MOU.

- 8. Public Relations.** The Parties shall cooperate in good faith on matters of public relations and media responses related to all matters arising out of this MOU. Each of the Parties shall also cooperate in good faith regarding any inquiry by the other Party or by the public in regard to matters arising out of this MOU. Each Party shall notify the other Party's point of contact, as identified in Section 10.3 ("Point of Contact"), of each media inquiry related to matters arising out of this MOU and shall provide the opportunity to review and comment on any such responses before issuance to the media. If either Party selects a new Point of Contact, it shall notify the other Party in writing in accordance with the provisions of Section 10.3 of the new Point of Contact. Each Party shall consult in advance with the other regarding print and electronic publications related to the matters covered by this MOU including, but not limited to, informational and educational brochures, newsletters, solicitations, and fundraising campaign materials. Any public print or electronic publication or statement with respect to the projects funded with Annual Support funds shall include a reference to both SFPA and RPD. Subject to the foregoing provisions of this Section 8, nothing in this MOU shall prohibit either Party from responding to inquiries from the public or the press. The Parties acknowledge that this MOU and all records in possession of the City regarding matters arising out of this MOU shall be subject to the disclosure requirements of the City's Sunshine Ordinance and the California Public Records Act.
- 9. Termination.** Either Party shall have the option, in its sole discretion, to terminate this MOU for convenience upon 90 days' prior written notice to the other Party. In addition, either Party may terminate this MOU for default, if it provides the other Party written notice of that Party's failure to comply with a material term of this MOU, and if that Party does not cure the failure to the complaining Party's reasonable satisfaction within 30 days after receipt of such notice or such other reasonable timeframe mutually agreed to by the Parties in writing. In either case if this MOU is terminated, the Parties will work together to take necessary actions to effectuate the termination. Section 6 (Insurance), Section 7 (Indemnity), and the obligations described in Exhibit A shall all survive termination.
- 10. Miscellaneous.**

 - 10.1 Entire Agreement.** This MOU, including all the exhibits hereto, contains the entire understanding between the Parties and supersedes all other oral or written discussions and agreements, with the exception of any duly executed and approved special project agreements.
 - 10.2 Amendment.** This MOU may be amended only by the mutual written consent of each of the Parties, executed in the same manner as the original agreement. The RPD General Manager, in consultation with the City Attorney and with the Controller as to Exhibit A, may execute such amendments on behalf of the City, provided the amendments are in the best interests of the City, do not materially increase the City's obligations or liabilities, are necessary or advisable to effectuate the purposes of this MOU, and are in compliance with all applicable laws.

10.3 Notices. All notices under this MOU shall be sufficiently given if emailed, hand delivered or mailed by registered or certified mail, postage prepaid, or by overnight express delivery, cost prepaid, to:

City:	SFPA:
Recreation and Park Department McLaren Lodge 501 Stanyan Street San Francisco, CA 94117 Attn: Philip A. Ginsburg, General Manager Email: phil.ginsburg@sfgov.org	San Francisco Parks Alliance 1074 Folsom Street San Francisco, California 94103 Attn: Drew Becher, CEO Email: drew@sfparksalliance.org
<i>with a copy to:</i> Office of the City Attorney City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, California 94102 Attn: Manu Pradhan Deputy City Attorney Email: manu.pradhan@sfgov.org	<i>with a copy to:</i> Pillsbury Winthrop Shaw Pittman LLP Four Embarcadero Center, 22 nd Floor San Francisco, California 94111 Attn: Thomas K. Gump Email: thomas.gump@pillsburylaw.com
Point of Contact: Recreation and Park Department McLaren Lodge 501 Stanyan Street San Francisco, CA 94117 Attn: Sarah Madland, Director of Policy and Public Affairs Email: sarah.madland@sfgov.org	Point of Contact: San Francisco Parks Alliance 1074 Folsom Street San Francisco, California 94103 Attn: Sonia Gonzalez Banks, Director of External Relations and Development Email: soniab@sfparksalliance.org

10.4 Governing Law. This MOU shall be construed and enforced in accordance with the laws of the State of California and the City's Charter.

10.5 Approvals. All City approvals under the agreements contemplated hereby shall be given by the RPD General Manager, or his designee in his or her reasonable discretion, except as otherwise specified herein or in the City Charter, or the S.F. Municipal Code.

10.6 Independent Relationship of the Parties. The City shall not be liable for any act of SFPA and SFPA shall not be liable for any act of the City, and nothing herein contained shall be construed as creating the relationship of employer and employee between the City and SFPA or any of their respective agents or employees. SFPA shall at all times be deemed independent from RPD and each Party shall be wholly responsible for the manner in which it performs the duties required of it by the terms of this MOU. Each Party has and hereby retains the right to exercise full control and supervision of its duties and full

control of employment, direction, compensation and discharge of all persons assisting it in the performance this MOU. Each Party agrees to be solely responsible for all matters relating to payment and employment of its respective employees, including compliance with social security, withholding and all other regulations governing such matters. Nothing set forth in this MOU shall be deemed to render the City a partner in SFPA's business, or joint venture or member in any joint enterprise with SFPA.

- 10.7 Non-Exclusivity.** This MOU does not create an exclusive relationship between the Parties. The Parties may continue to work with other entities and with members of the public directly, notwithstanding this MOU.
- 10.8 No Third Party Beneficiaries.** Except as expressly provided, nothing contained in this MOU shall create or justify any claim against the City or SFPA by any third person with respect to the performance of any duties or other projects being undertaken by SFPA or the City. The provisions of this MOU are not intended to benefit any third party, and no third party may rely hereon.
- 10.9 Assignments.** Neither Party shall assign, transfer, or encumber its interest in this MOU or any other right, privilege, or license conferred by this MOU, either in whole or in part, without obtaining the prior written consent of the other Party, which consent may given or withheld in such Party's sole and absolute discretion. Any assignment or encumbrance by a Party without the other Party's consent shall be void and of no force and effect.
- 10.10 Compliance with Laws.** Each Party shall keep itself fully informed of City's Charter, codes, ordinances and regulations and all state, and federal laws, rules and regulations affecting the performance of its respective obligations under this MOU and shall at all times comply with such Charter codes, ordinances, and regulations, rules and laws including without limitation, the requirements of SF Administrative Code §10.100.205 et seq. and Section 67.29-6 of the City's Sunshine Ordinance. In addition, each Party represents and warrants that it is fully authorized to enter into and perform under this MOU.
- 10.11 Conflicts of Interest.** By executing this MOU, SFPA certifies that it does not know of any fact which constitutes a violation of Section 15.103 of the City's Charter; Article III, Chapter 2 of City's Campaign and Governmental Conduct Code; Title 9, Chapter 7 of the California Government Code (Section 87100 et seq.), or Title 1, Division 4, Chapter 1, Article 4 of the California Government Code (Section 1090 et seq.), and further agrees promptly to notify the City if it becomes aware of any such fact during the term of this MOU. For example, SFPA will notify RPD if it becomes aware that any RPD employee or officer participates in a decision in which the employee or officer, or a member of their family, has a financial interest. In addition, the Parties agree and acknowledge that SFPA's or its donors' fiscal support of RPD, or lack thereof, shall have no bearing on and shall not be relevant towards any future contracting, leasing, or permitting decisions by RPD.
- 10.12 Statement of Incompatible Activities.** RPD's Statement of Incompatible Activities (SIA) was adopted under the provisions of San Francisco Campaign & Governmental Conduct Code section 3.218 on October 8, 2008. In general, RPD's SIA (1) prohibits outside activities that are incompatible with RPD's mission; (2) restricts the use of City resources, City work-product and prestige for any non-City purpose, including any political activity or personal purpose; and (3) prohibits receipt/acceptance of gifts in exchange for doing the employee's job. A copy of the SIA is attached as Exhibit C. SFPA agrees that it will not

knowingly cause RPD staff to violate the SIA. In addition, SFPA shall ensure that no employee or officer of RPD is a member of SFPA's board of directors or otherwise holds a fiduciary position with SFPA, and that no employee or officer of RPD and no member of an RPD employee or officer's immediate family receives income from SFPA.

IN WITNESS WHEREOF, the Parties hereto have caused this Memorandum of Understanding to be executed by their duly authorized representatives as of Effective Date:

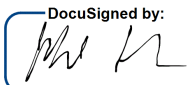
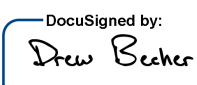
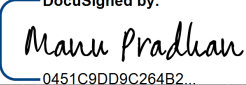
<p>CITY AND COUNTY OF SAN FRANCISCO</p> <p>DocuSigned by: </p> <p>By: <u>AF27F6596709494...</u></p> <p>Philip A. Ginsburg, General Manager Recreation and Park Department</p> <p>5/28/2021 DATE: _____</p>	<p>SFPA</p> <p>DocuSigned by: </p> <p>By: <u>F33F21F2A100473...</u></p> <p>Drew Becher, CEO San Francisco Parks Alliance</p> <p>5/28/2021 DATE: _____</p>
<p>APPROVED AS TO FORM:</p> <p>DENNIS J. HERRERA City Attorney</p> <p>DocuSigned by: </p> <p>By: <u>0451C9DD9C264B2...</u></p> <p>Manu Pradhan Deputy City Attorney</p>	

Exhibit A

Disclosure Obligations; Recordkeeping and Auditing

- A. **Departmental Reporting & Disclosure Obligations: Acknowledgment of Disclosure Obligations under City Law.** San Francisco Administrative Code Section 67.29-6 requires RPD (referred to in this Exhibit A as the “Department”) to disclose on its website the amount and source of all money, goods or services worth more than \$100 in the aggregate for the purpose of carrying out or assisting any City function. For all gifts, grants, and other donations received under this MOU, the disclosure must identify SFPA as the contributor, the amounts contributed, and a statement as to any financial interest SFPA has involving the City, including a contract, grant, lease, or request for license, permit, or other entitlement for use. Under the Administrative Code, the Department must post this information on its website within 30 days of the date of any such donation. If required by City law, the Department must also disclose this or other information about donations from SFPA in any related resolution or ordinance submitted to the Board of Supervisors for approval.
- B. **SFPA’s Reporting & Disclosure Obligations.**
1. **Donor and Grant Information.** SFPA agrees to comply with San Francisco Administrative Code Section 67.29-6 by posting on its website the names of all individuals or organizations that contribute \$100 or more to SFPA, by gift, grants, or other instruments, in the form of money, goods, or services, for the purpose of carrying out or assisting the Department’s performance of its City functions; the amounts contributed; and a statement as to any financial interest the donor contributing to the SFPA has involving the City, including any donor’s contract, grant, lease, or request for license, permit, or other entitlement for use. SFPA will post this information on its website within 30 days of receipt of any gift, grant or other instrument, and will also provide this information to the Department each year by no later than the first business day in July for the preceding fiscal year. SFPA will maintain this donor information on its website until at least the end of the fifth fiscal year after the donation. To ensure compliance with this requirement and to maximize public transparency, SFPA will not accept anonymous donations from a single source aggregating more than \$100 for purposes covered under this MOU. These provisions shall also apply to any grants received by SFPA, if those grant funds are transferred to the City for the purpose of carrying out or assisting any City function.
 2. **Financial Reports.** SFPA will provide to the Department and the Department is required to upload a PDF (searchable text) copy of the SFPA’s annual audited financial report and IRS Form 990 annual tax return into the City’s financial system as an attachment to the MOU Agreement. The annual audited financial report filings must include detailed information about the SFPA’s total sources and uses of funds and also the sources and uses of funds dedicated to support the Department covered under this MOU, the names of the SFPA’s Board of Directors and Officers, and the names of any and all payees of Funds covered by this MOU, including consultants, contractors and subcontractors and any current or past City employees paid and any funds provided directly to the City Department to support the Department’s functions including but not limited to employee recognition and public events. Additionally, SFPA will post its audited financial

report and its IRS Form 990 and all related tax return schedules on its website annually within 60 days of the completion of each.

3. **Links to SFPA Website.** The Department will provide a link on its website to SFPA's website for the public to readily access the information required under this MOU. SFPA will also post this MOU on its website along with copies of any other copies of Grant Awards or other City Contracts and MOU Agreements with any City Department including the Department covered by this MOU.
4. **SFPA's Supplier Registration.** As part of the MOU Agreement execution, the SFPA must register and submit an IRS Form W-9 through the SF City Partner portal, a complete copy of their most recent IRS Form 990 tax return and complete their Approved Supplier set up through the Controller's Supplier Management Unit.
5. **SFPA's Invoices through SF City Partner Online (eSettlements) site.** If the MOU Agreement includes invoicing by SFPA to the City Department, all invoices must be submitted online with any/all required supporting documentation through the SF City Partner portal's Online eSettlements site.

C. **Recordkeeping and Auditing.**

1. **Recordkeeping.** SFPA will maintain books and records relating to this MOU, in accordance with generally accepted accounting practices consistently applied, that contain all information required to allow the Department and/or the City's Controller, at their discretion, to audit SFPA's records and to verify contributions and expenditures in accordance with this MOU.
2. **Auditing.** SFPA shall make such books and records relating to this MOU available to the Department and/or the City's Controller (or their representatives) upon commercially reasonable prior written notice, but in no event more than ten (10) days after such notice is provided to conduct an audit. SFPA shall retain and shall allow the Department and/or the City's Controller to access such books and records for a period of the later of (i) five (5) years after the end of each year to which such books and records apply, (ii) five (5) years after the issuance date of the SFPA's audited financial statement or the IRS Form 990 annual tax return to which such books and records apply, or (iii) if an audit is commenced or if a controversy should arise between the parties hereto regarding the contributions or expenditures hereunder, until such audit or controversy is terminated.

Exhibit B

SFPA Insurance Requirements

1. The SFPA must maintain in force, during the full term of this Agreement, insurance in the following amounts and coverage:
 - a. General Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for Contractual Liability, Personal Injury, Independent Contractors, Explosion, Collapse and Underground (XCU) as applicable, Broadform Property Damage, Sudden and Accidental Pollution as applicable, Products Liability and Completed Operations; and
 - b. Automobile Liability Insurance with limits not less than \$1,000,000 each occurrence Combined Single Limit for Bodily Injury and Property Damage, including coverages for owned, non-owned and hired automobiles, as applicable.
2. Delivery of Certificates. Prior to the commencement date of this Agreement, the SFPA shall deliver to the City certificates of insurance and additional insured policy endorsements from insurers in a form satisfactory to the City, evidencing the coverages required from the SFPA, together with complete copies of the policies at the City's request. Additionally, prior to the date any contractor commences work at any RPD site or facility, the SFPA shall ensure that the appropriate insurance certificates are in place.
3. No Limitation of Obligations. The SFPA's compliance with the provisions of this section shall in no way relieve or decrease the SFPA's indemnification obligation under this Agreement or any of the SFPA's other obligations hereunder.

Exhibit C

Statement of Incompatible Activities

(see attached)



City and County of San Francisco
Recreation and Park Department

McLaren Lodge in Golden Gate Park

501 Stanyan Street, San Francisco, CA 94117

TEL: 415.831.2776 FAX: 415.666.7050 WEB: <http://parks.sfgov.org>

RECREATION AND PARK DEPARTMENT
STATEMENT OF INCOMPATIBLE ACTIVITIES

I. INTRODUCTION

This Statement of Incompatible Activities is intended to guide officers and employees of the San Francisco Recreation and Park Department (“Department”) and the Recreation and Park Commission (“Commission”) about the kinds of activities that are incompatible with their public duties and therefore prohibited. For the purposes of this Statement, and except where otherwise provided, “officer” shall mean the Appointing Officer (“General Manager”) and/or a member of the Commission; and “employee” shall mean all employees of the Department.

This Statement is adopted under the provisions of San Francisco Campaign & Governmental Conduct Code (“C&GC Code”) section 3.218. Engaging in the activities that are prohibited by this Statement may subject an officer or employee to discipline, up to and including possible termination of employment or removal from office, as well as to monetary fines and penalties. (C&GC Code § 3.242; Charter § 15.105.) Before an officer or employee is subjected to discipline or penalties for violation of this Statement, the officer or employee will have an opportunity to explain why the activity should not be deemed to be incompatible with his or her City duties. (C&GC Code § 3.218.) Nothing in this document shall modify or reduce any due process rights provided pursuant to the officer’s or employee’s collective bargaining agreement.

In addition to this Statement, officers and employees are subject to Department policies and State and local laws and rules governing the conduct of public officers and employees, including but not limited to:

- Political Reform Act, California Government Code § 87100 *et seq.*;
- California Government Code § 1090;
- San Francisco Charter;
- San Francisco Campaign and Governmental Conduct Code;
- San Francisco Sunshine Ordinance; and
- Applicable Civil Service Rules.

Nothing in this Statement shall exempt any officer or employee from applicable provisions of law, or limit his or her liability for violations of law. Examples provided in this Statement are for illustration purposes only, and are not intended to limit application of this Statement. Nothing in this Statement shall interfere with the rights of employees under a collective bargaining agreement or Memorandum of Understanding applicable to that employee.

Nothing in this Statement shall be construed to prohibit or discourage any City officer or employee from bringing to the City’s and/or public’s attention matters of actual or perceived malfeasance or misappropriation in the conduct of City business, or from filing a complaint alleging that a City officer or employee has engaged in improper governmental activity by violating local campaign finance, lobbying, conflicts of interest or governmental ethics laws, regulations or rules; violating the California Penal Code by misusing City resources; creating a specified and substantial danger to public health or



safety by failing to perform duties required by the officer's or employee's City position; or abusing his or her City position to advance a private interest.

No amendment to any Statement of Incompatible Activities shall become operative until the City and County has satisfied the meet and confer requirements of State law and the collective bargaining agreement.

If an employee has questions about this Statement, the questions should be directed to the employee's supervisor, General Manager or designee. Similarly, questions about other applicable laws governing the conduct of public employees should be directed to the employee's supervisor or the General Manager/designee, although the supervisor or General Manager/designee may determine that the question must be addressed to the Ethics Commission or City Attorney. Employees may also contact their unions for advice or information about their rights and responsibilities under these and other laws.

If a City officer has questions about this Statement, the questions should be directed to the officer's appointing authority, the Ethics Commission or the City Attorney.

II. MISSION OF THE RECREATION AND PARK DEPARTMENT

The mission of the Recreation and Park Department is to provide enriching recreational activities, maintain beautiful parks and preserve the environment for the well-being of our diverse community.

III. RESTRICTIONS ON INCOMPATIBLE ACTIVITIES

This section prohibits outside activities, including self-employment, that are incompatible with the mission of the Department. Under subsection C, an officer or employee may seek an advance written determination whether a proposed outside activity is incompatible and therefore prohibited by this Statement. Outside activities other than those expressly identified here may be determined to be incompatible and therefore prohibited. For an advance written determination request from an employee, if the General Manager delegates the decision-making to a designee and if the designee determines that the proposed activity is incompatible under this Statement, the employee may appeal that determination to the General Manager.

A. RESTRICTIONS THAT APPLY TO ALL OFFICERS AND EMPLOYEES

1. ACTIVITIES THAT CONFLICT WITH OFFICIAL DUTIES

No officer or employee may engage in an outside activity (regardless of whether the activity is compensated) that conflicts with his or her City duties. An outside activity conflicts with City duties when the ability of the officer or employee to perform the duties of his or her City position is materially impaired. Outside activities that materially impair the ability of an officer or employee to perform his or her City duties include, but are not limited to, activities that disqualify the officer or employee from City assignments or responsibilities on a regular basis. Unless (a) otherwise noted in this section or (b) an advance written determination under subsection C concludes that such activities are not incompatible, the following activities are expressly prohibited by this section.

[RESERVED.]

2. ACTIVITIES WITH EXCESSIVE TIME DEMANDS

Neither the General Manager nor any employee may engage in outside activity (regardless of whether the activity is compensated) that would cause the General Manager or employee to be absent from his or her assignments on a regular basis, or otherwise require a time commitment that is demonstrated to interfere with the General Manager's or employee's performance of his or her City duties.

Example. An employee who works at the Department's front desk answering questions from the public wants to take time off every Tuesday and Thursday from 2:00 to 5:00 to coach soccer. Because the employee's duties require the employee to be at the Department's front desk during regular business hours, and because this outside activity would require the employee to be absent from the office during regular business hours on a regular basis, the General Manager or his/her designee may, pursuant to subsection C, determine that the employee may not engage in this activity.

3. ACTIVITIES THAT ARE SUBJECT TO REVIEW BY THE DEPARTMENT

Unless (a) otherwise noted in this section or (b) an advance written determination under subsection C concludes that such activities are not incompatible, no officer or employee may engage in an outside activity (regardless of whether the activity is compensated) that is subject to the control, inspection, review, audit or enforcement of the Department. In addition to any activity permitted pursuant to subsection C, nothing in this subsection prohibits the following activities: appearing before one's own department or commission on behalf of oneself; filing or otherwise pursuing claims against the City on one's own behalf; running for City elective office; or making a public records disclosure request pursuant to the Sunshine Ordinance or Public Records Act. Unless (a) otherwise noted in this section or (b) an advance written determination under subsection C concludes that such activities are not incompatible, the following activities are expressly prohibited by this section.

a. Assistance in Responding to City Bids, Request for Qualifications (RFQs) and Request for Proposals (RFPs). No officer or employee may knowingly provide selective assistance (i.e., assistance that is not generally available to all competitors) to individuals or entities in a manner that confers a competitive advantage on a bidder or proposer who is competing for a City contract. Nothing in this Statement prohibits an officer or employee from providing general information about a bid for a City contract, a Department RFQ or RFP or corresponding application process that is available to any member of the public. Nothing in this Statement prohibits an officer or employee from speaking to or meeting with individual applicants regarding the individual's application, provided that such assistance is provided on an impartial basis to all applicants who request it.

b. Other than in his or her official capacity, no officer or employee may assist private individuals or entities in securing permits for the use of Recreation and Park facilities.

Notwithstanding the above prohibitions, officers and employees are not prohibited from providing general information about the contracting process or about how to apply for permits to any member of the public.

B. RESTRICTIONS THAT APPLY TO EMPLOYEES IN SPECIFIED POSITIONS

In addition to the restrictions that apply to all officers and employees of the Department, unless (a) otherwise noted in this section or (b) an advance written determination under subsection C concludes that such activities are not incompatible, the following activities are expressly prohibited by this section for individual employees holding specific positions.

1. OFFICERS OR EMPLOYEES RESPONSIBLE FOR THE PROCUREMENT OF SUPPLIES, MATERIALS, CONTRACTS OR SERVICES

No officer or employee who is responsible for the procurement of supplies, materials, contracts or services may receive compensation or anything of value from any person or entity from which such materials, contracts or services were procured, if such compensation or thing of value is received as a result of the officer's or employee's duties with the Department.

Example: An employee whose duties include the procurement of supplies or materials for the Department authorizes the purchase of sporting goods from a local retail sporting goods store. After such purchase, the sporting goods store offers the employee a discount on any future purchases he or she wishes to make for him or herself. The employee may not accept the discount offer because the employee may not benefit materially from a purchase with the sporting goods store made in the course of his or her employment with the Department. This prohibition is also covered under section V of this Statement.

2. OFFICERS OR EMPLOYEES RESPONSIBLE FOR THE DISTRIBUTION OR ALLOCATION OF SUPPLIES, MATERIALS, CONTRACTS OR SERVICES

No officer or employee whose duties include the distribution or allocation of supplies, materials, contracts or services for the Department may receive compensation or anything of value from any person or entity to which such materials, contracts or services were distributed or allocated, if such compensation or thing of value is received as a result of the officer's or employee's duties with the Department.

Example: An employee provides swimming lessons to the public as part of his or her City duties. At the swimming facility, a member of the public offers compensation or a thing of value to the employee. The employee may not accept the compensation or anything of value for services rendered as part of his or her official duties. This prohibition is also covered under section V of this Statement.

Example: An employee coaches softball at a City playground as part of his or her duties for the Department. The employee may not solicit or receive anything of value from any member of the public, who utilizes the services of the playground, for performing his or her City job duties. This prohibition is also covered under section V of this Statement.

C. ADVANCE WRITTEN DETERMINATION

As set forth below, an employee of the Department or the General Manager or a member of the Commission may seek an advance written determination whether a proposed outside activity conflicts with the mission of the Department, imposes excessive time demands, is subject to review by the

Department, or is otherwise incompatible and therefore prohibited by section III of this Statement. For the purposes of this section, an employee or other person seeking an advance written determination shall be called “the requestor”; the individual or entity that provides an advance written determination shall be called “the decision-maker.”

1. PURPOSE

This subsection permits an officer or employee to seek an advance written determination regarding his or her obligations under subsections A or B of this section. A written determination by the decision-maker that an activity is not incompatible under subsection A or B provides the requestor immunity from any subsequent enforcement action for a violation of this Statement if the material facts are as presented in the requestor’s written submission. A written determination cannot exempt the requestor from any applicable law.

If an individual has not requested an advance written determination under subsection C as to whether an activity is incompatible with this Statement, and the individual engages in that activity, the individual will not be immune from any subsequent enforcement action brought pursuant to this Statement.

Similarly, if an individual has requested an advance written determination under subsection C as to whether an activity is incompatible with this Statement, and the individual engages in that activity, the individual will not be immune from any subsequent enforcement action brought pursuant to this Statement if:

- (a) the requestor is an *employee* who has not received a determination under subsection C from the decision-maker, and 20 working days have not yet elapsed since the request was made; or
- (b) the requestor is an *officer* who has not received a determination under subsection C from the decision-maker; or
- (c) the requestor has received a determination under subsection C that an activity is incompatible.

In addition to the advance written determination process set forth below, the San Francisco Charter also permits any person to seek a written opinion from the Ethics Commission with respect to that person's duties under provisions of the Charter or any City ordinance relating to conflicts of interest and governmental ethics. Any person who acts in good faith on an opinion issued by the Commission and concurred in by the City Attorney and District Attorney is immune from criminal or civil penalties for so acting, provided that the material facts are as stated in the opinion request. Nothing in this subsection precludes a person from requesting a written opinion from the Ethics Commission regarding that person's duties under this Statement.

2. THE DECISION-MAKER

Decision-maker for request by an employee: An employee of the Department may seek an advance written determination from the General Manager or his or her designee. The General Manager or his or her designee will be deemed the decision-maker for the employee’s request.

Decision-maker for request by the General Manager: The General Manager may seek an advance written determination from his or her appointing authority. The appointing authority will be deemed the decision-maker for the General Manager's request.

Decision-maker for request by a member of the Commission: A member of the Commission may seek an advance written determination from his or her appointing authority or from his or her commission, or the Ethics Commission. The appointing authority, Commission or Ethics Commission will be deemed the decision-maker for the member's request.

3. THE PROCESS

The requestor must provide, in writing, a description of the proposed activity and an explanation of why the activity is not incompatible under this Statement. The written material must describe the proposed activity in sufficient detail for the decision-maker to make a fully informed determination whether it is incompatible under this Statement.

When making a determination under this subsection, the decision-maker may consider any relevant factors including, but not limited to, the impact on the requestor's ability to perform his or her job, the impact upon the Department as a whole, compliance with applicable laws and rules and the spirit and intent of this Statement. The decision-maker shall consider all relevant written materials submitted by the requestor. The decision-maker shall also consider whether the written material provided by the requestor is sufficiently specific and detailed to enable the decision-maker to make a fully informed determination. The decision-maker may request additional information from the requestor if the decision-maker deems such information necessary. For an advance written determination request from an employee, if the General Manager delegates the decision-making to a designee and if the designee determines that the proposed activity is incompatible under this Statement, the employee may appeal that determination to the General Manager.

The decision-maker shall respond to the request by providing a written determination to the requestor by mail, email, personal delivery, or other reliable means. For a request by an employee, the decision-maker shall provide the determination within a reasonable period of time depending on the circumstances and the complexity of the request, but not later than 20 working days from the date the request *is received*. If the decision-maker does not provide a written determination to the employee within 20 working days from the date *the request is received*, the decision-maker shall be deemed to have determined that the proposed activity does not violate this Statement.

The decision-maker may revoke the written determination at any time based on changed facts or circumstances or other good cause, by providing advance written notice to the requestor. The written notice shall specify the changed facts or circumstances or other good cause that warrants revocation of the advance written determination.

4. DETERMINATIONS ARE PUBLIC RECORDS

To assure that these rules are enforced equally, requests for advance written determinations and written determinations, including approvals and denials, are public records to the extent permitted by law.

IV. RESTRICTIONS ON USE OF CITY RESOURCES, CITY WORK-PRODUCT AND PRESTIGE

A. USE OF CITY RESOURCES

No officer or employee may use City resources, including, without limitation, facilities, telephone, computer, copier, fax machine, e-mail, internet access, stationery and supplies, for any non-City purpose, including any political activity or personal purpose. No officer or employee may allow any other person to use City resources, including, without limitation, facilities, telephone, computer, copier, fax machine, e-mail, internet access, stationery and supplies, for any non-City purpose, including any political activity or personal purpose. Notwithstanding these general prohibitions, any incidental and minimal use of City resources does not constitute a violation of this section. Nothing in this subsection shall be interpreted or applied to interfere with, restrict or supersede any rights or entitlements of employees, recognized employee organizations, or their members under state law or regulation or pursuant to provisions of a collective bargaining agreement to use City facilities, equipment or resources, as defined herein.

Example. An officer or employee may use the telephone to make occasional calls to arrange medical appointments or speak with a child care provider, because this is an incidental and minimal use of City resources for a personal purpose.

Example. While arborist technicians are removing a large tree from a neighborhood park, a nearby resident asks one of the staff to remove a tree from his or her front yard. Although the arborist technician may perform work for the resident, the employee may do so only on his or her own time and only when using equipment that does not belong to the City.

Nothing in this Statement shall exempt any officer or employee from complying with more restrictive policies of the Department regarding use of City resources, including, without limitation, the Department's e-mail policy.

B. USE OF CITY WORK-PRODUCT

No officer or employee may, in exchange for anything of value and without appropriate authorization, sell, publish or otherwise use any non-public materials that were prepared on City time or while using City facilities, property (including without limitation, intellectual property), equipment and/or materials. For the purpose of this prohibition, appropriate authorization includes authorization granted by law, including the Sunshine Ordinance, California Public Records Act, the Ralph M. Brown Act as well as whistleblower and improper government activities provisions, or by a supervisor of the officer or employee, including but not limited to the officer's or employee's appointing authority. Nothing in this subsection shall be interpreted or applied to interfere with, restrict or supersede any rights or entitlements of employees, recognized employee organizations, or their members under state law or regulation or pursuant to provisions of a collective bargaining agreement to use public materials for collective bargaining agreement negotiations.

C. USE OF PRESTIGE OF THE OFFICE

No officer or employee may use his or her City title or designation in any communication for any private gain or advantage. The following activities are expressly prohibited by this section.

1. USING CITY BUSINESS CARDS

No officer or employee may use his or her City business cards for any purpose that may lead the recipient of the card to think that the officer or employee is acting in an official capacity when the officer or employee is not.

Example of inappropriate use. An employee's friend is having a dispute with his new neighbor who is constructing a fence that the friend believes encroaches on his property. The friend invites the employee over to view the disputed fence. When the neighbor introduces herself, the employee should not hand the neighbor her business card while suggesting that she could help resolve the dispute. Use of a City business card under these circumstances might lead a member of the public to believe that the employee was acting in an official capacity.

Example of acceptable use. An employee is at a party and runs into an old friend who has just moved to town. The friend suggests meeting for dinner and asks how to get in touch with the employee to set up a meeting time. The employee hands the friend the employee's business card and says that he can be reached at the number on the card. Use of a City business card under these circumstances would not lead a member of the public to believe that the employee was acting in an official capacity. Nor would use of the telephone to set up a meeting time constitute a misuse of resources under subsection A, above.

2. USING CITY LETTERHEAD, CITY TITLE, OR E-MAIL

No officer or employee may use City letterhead, City title, City e-mail, or any other City resource, for any communication that may lead the recipient of the communication to think that the officer or employee is acting in an official capacity when the officer or employee is not. (Use of e-mail or letterhead in violation of this section could also violate subsection A of this section, which prohibits use of these resources for any non-City purpose.)

Example. An officer or employee is contesting a parking ticket. The officer or employee should not send a letter on City letterhead to the office that issued the ticket contesting the legal basis for the ticket.

3. HOLDING ONESELF OUT, WITHOUT AUTHORIZATION, AS A REPRESENTATIVE OF THE DEPARTMENT

No officer or employee may hold himself or herself out as a representative of the Department, or as an agent acting on behalf of the Department, unless authorized to do so.

Example. An employee who lives in San Francisco wants to attend a public meeting of a Commission that is considering a land use matter that will affect the employee's

neighborhood. The employee may attend the meeting and speak during public comment, but should make clear that he is speaking in his private capacity and not as a representative of the Department.

V. PROHIBITION ON GIFTS FOR ASSISTANCE WITH CITY SERVICES

State and local law place monetary limits on the value of gifts an officer or employee may accept in a calendar year. (Political Reform Act, Gov't Code § 89503, C&GC Code §§ 3.1-101 and 3.216.) This section imposes additional limits by prohibiting an officer or employee from accepting any gift that is given in exchange for doing the officer's or employee's City job.

No officer or employee may receive or accept gifts from anyone other than the City for the performance of a specific service or act the officer or employee would be expected to render or perform in the regular course of his or her City duties; or for advice about the processes of the City directly related to the officer's or employee's duties and responsibilities, or the processes of the entity they serve.

Example. A member of the public who regularly works with and receives assistance from the Department owns season tickets to the Giants and sends a pair of tickets to an employee of the Department in appreciation for the employee's work. Because the gift is given for the performance of a service the employee is expected to perform in the regular course of City duties, the employee is not permitted to accept the tickets.

Example. A member of the public requests assistance in resolving an issue or complaint that is related to the City and County of San Francisco, but that does not directly involve the Department. The employee directs the member of the public to the appropriate department and officer to resolve the matter. The member of the public offers the employee a gift in appreciation for this assistance. The employee may not accept the gift, or anything of value from anyone other than the City, for providing this kind of assistance with City services.

As used in this Statement, the term gift has the same meaning as under the Political Reform Act, including the Act's exceptions to the gift limit. (See Gov't Code §§ 82028, 89503; 2 Cal. Code Regs. §§ 18940-18950.4.) For example, under the Act, a gift that, within 30 days of receipt, is returned, or donated by the officer or employee to a 501(c)(3) organization or federal, state or local government without the officer or employee taking a tax deduction for the donation, will not be deemed to have been accepted. In addition to the exceptions contained in the Act, nothing in this Statement shall preclude an employee's receipt of a bona fide award, or free admission to a testimonial dinner or similar event, to recognize exceptional service by that employee, and which is not provided in return for the rendering of service in a particular matter. Such awards are subject to the limitation on gifts imposed by the Political Reform Act and local law.

In addition, the following gifts are de minimis and therefore exempt from the restrictions on gifts imposed by section V of this Statement:

- i. Gifts, other than cash, with an aggregate value of \$25 or less per occasion; and

- ii. Gifts such as food and drink, without regard to value, to be shared in the office among officers or employees.

Example. A member of the public who regularly works with and receives assistance from the Department sends a \$15 basket of fruit to an employee as a holiday gift. Although the fruit may in fact be offered in exchange for performing services that the employee is expected to perform in the regular course of City duties, the employee may accept the fruit because the value is de minimis. (Because the reporting requirement is cumulative, an employee may be required to report even de minimis gifts on his or her Statement of Economic Interests if, over the course of a year, the gifts equal or exceed \$50.)

Example. A member of the public who regularly works with and receives assistance from the Department sends a \$150 basket of fruit to the Department as a holiday gift. Although the fruit may in fact be offered in exchange for performing services that the Department is expected to perform in the regular course of City duties, the Department may accept the fruit basket because it is a gift to the office to be shared among officers and employees.

VI. AMENDMENT OF STATEMENT

Once a Statement of Incompatible Activities is approved by the Ethics Commission, the Department may, subject to the approval of the Ethics Commission, amend the Statement. (C&GC Code § 3.218(b).) In addition, the Ethics Commission may at any time amend the Statement on its own initiative. No Statement of Incompatible Activities or any amendment thereto shall become operative until the City and County of San Francisco has satisfied the meet and confer requirements of State law and the collective bargaining agreement.

Exhibit D

Annual Support Projects

RPD projects, programs and operations including:

- Community events
- Youth development programs
- Recreation programs and facilities
- Volunteer programs
- Materials and supplies for park and program operations
- Park bench maintenance and materials for the commemorative bench program
- Staff development programs and activities including:
 - Training
 - Professional development
 - Strategic planning
- Employee recognition and appreciation
- Partnership development and planning

Exhibit E

List of Active Special Projects

1. Let'sPlaySF! – active agreements
2. India Basin – active agreement
3. Golden Gate Park Tennis Center – active agreement
4. Conservatory of Flowers – active agreement
5. McLaren Bike Park Founders
6. SkyStar Permit (as to SFPA)